

UNITED STATES OF AMERICA  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

In The Matter Of:	)	
	)	
Creation of A Low Power	)	Docket MM 99-25
Radio Service	)	

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REVISED COMMENTS OF KZQX-LP

**FCC Docket MM 99-25**  
**In The Matter of: Creation of a Low Power Radio Service**  
**April 5, 2008**

In January of 2008, we electronically filed comments on this matter. It comes to our attention, that our comments may have been prematurely filed, although the Commissions web site accepted them at the time of the filing. In the ensuing months, additional information has surfaced that should mentioned, therefore, KZQX-LP hereby submits Revised Comments on the FCC's December 2007 Report and Order on translator reform and Low Power FM (LPFM).

**A. INTRODUCTION:**

KZQX-LP was one of the first Low Power FM stations to sign on in Texas. In the five and a half years that have passed, we feel we have a unique perspective about the realities of daily life running a successful low power community radio station.

**B. TRANSLATOR REFORM**

KZQX-LP agrees with the Commission in regard to imposing a 10-station limit on each applicant for translator licenses and for making this limit retroactive. This will allow some of the abuses that appeared in The Great Translator Invasion to be mitigated. In our opinion, the sooner the dismissal process starts, the better. That said, we believe that translators can be a very worthwhile service, especially when they are used to fill in and expand the coverage areas of local and regional broadcasters. What we object to is the speculative nature of the last filing window. We are also leery of translators that import all their

programming from thousands of miles away. They do very little to serve localism.

We would go one step further to suggest that translators should be allowed to originate a limited amount of local programming in the communities they serve. It is simply another way to foster local broadcasting. If the Commission were serious about localism in radio, this would be a simple and effective way to accomplish it with existing facilities.

Current rules require that translators must receive their signals off the air, unless the originating station is NCE in the reserved band. At first glance that seems like a reasonable method to curtail the proliferation of even more satellite translator networks. What's wrong is it does not include LPFMs, which are actually NCE stations but they are not usually located in the reserved band.

Presumably, if a LPFM station was to be located in the Reserved Band, then it would be OK for a translator to rebroadcast the originating signal through using alternate means of delivery. On the other hand, if the LPFM is not in the Reserved Band, then it would not be acceptable. That seems inconsistent and quite arbitrary. We think the Commission should reevaluate this regulation.

We understand the reasoning for requiring off-air reception for translators, however in today's crowded and sometimes unfriendly RF environment, using an alternate means of relaying the signal would be a better option. With the proliferation of unlicensed modulators, the issue of hijacking a translator's signal has become very real. Further, while acceptable off-air reception can usually be obtained most of the time, there can be periods where it is not possible due to atmospheric conditions.

Part of the object of having any radio service, is for it to be reliable. We suggest that the Commission relax the rules to allow alternate means of reception for truly local translators. Better technology exists to relay a signal. It is cheap and reliable. Perhaps a requirement that it must be *possible* to receive the originating signal at the translator site would be appropriate. Simpler still, might be a requirement that translators must relay the signal of an originating station that is located within a specific distance (say 125 miles) from the originating station. We hope you will consider these proposed changes.

### C. LPFM DISPLACEMENT

We believe that no existing LPFM station should be displaced because a full power station wishes to increase its coverage area. Just as LPFM operators knew what they were getting into when they applied for their license, operators of marginal or “rim-shot” stations entered into their business arrangements with their eyes wide open. Making it easy for a station located in a rural area to move into a metropolitan zone should not be a high priority for the Commission. Providing smaller communities with local radio service should be of greater importance. As it stands now, if these small LPFM stations are not protected, most of them will be displaced over time.

KZQX-LP does not oppose *the concept* of requiring LPFM stations to meet certain “localism” requirements in return for protection. We do have reservations regarding specific *details* of the contemplated “localism” criteria. It is evident to us that the most recent rulings have caused a great deal of confusion in the Low Power FM community. Most operators we are familiar with are concerned that these developments could result in increased workloads and make day-to-day operation of an LPFM station even more difficult than it already is. Keep in mind that most of these stations have a very limited volunteer labor force and a miniscule annual operating budget. We are concerned that the localism requirements may be too burdensome for some LPFM stations to meet. Due to the unique nature of LPFM stations, a “one size fits all” approach seems to be inappropriate. What works well for one community may not be fitting for another.

We believe that the Commissions comment about “repetitive automated programming” needs further clarification. Automation is simply a tool. By itself, it is neither good nor bad. It is what you do with it that counts. In fact, automation can be used very effectively as a means of delivery for very local programming. It allows the station staff to produce programs at times that are convenient to them, and play such programs at times that are appropriate for the local audience. The fact that a machine automatically runs the program, rather than a human, is inconsequential. For understaffed LPFM stations with little or no budget, it is an effective means to deliver higher quality programming than their resources would otherwise allow. Upon investigation, we believe you will find that most existing LPFM stations rely heavily on computer automation systems.

By its nature, radio is repetitive. Most successful LPFMs are far less repetitive than their commercial counterparts. It seems unfair that

the FCC might hold LPFM operators to a higher standard of localism and programming origination than they do for commercial full power operations.

We are aware of some LPFM stations that very definitely serve the needs of their respective communities by providing a program service that is largely derived from a network source. For instance, there are LPFM stations that subscribe to various Public Radio and Classical Music networks. They bring quality programming to their community. We find it hard to find fault with that. Without those network affiliations, it would be very difficult if not impossible to provide the same level of content that some of these stations currently deliver. For instance, Classical music formats are very difficult to do. They require extensive music libraries, the cost of which is likely to be beyond the resources of a typical LPFM station. Further, you can't reasonably expect that there would be enough volunteers in the service area of most LPFM stations who could even pronounce the names of the artists and composers, much less relate any well researched information about the music or its history. Sometimes you have to bow to the experts.

Without some LPFM stations filling a void, many types of programming simply would not be available to a lot of over the air radio listeners. LPFM is an ideal place to keep alive formats that have little or no commercial support and have been abandoned by larger commercial stations. Classical, Real Jazz, Smooth Jazz, Beautiful Music, Easy Listening, Old Time Radio, Broadway Show Tunes and even "Oldies" have been more or less cast off by all but a few commercial broadcasters. Any of these formats, added with a good dose of community service and information, are fertile ground for LPFM.

While we oppose the use of LPFM as a "satellator" service, we do feel there are instances where such programming is for the greater good. We believe you have to be very careful with the use of localism requirements. Every action has unintended consequences. Perhaps the criteria should be *how well the station serves the local community*, not where and how the programming is generated.

#### **D. CONTOUR BASED METHODOLOGY**

We are in favor of the limited use of "contour-based methodology" by LPFM stations, if that is the only way they can be accommodated. It is

our feeling that it should only be used when a station can't be engineered through other means.

We favor keeping the current "short form" process for most applications. We support the Commissions recommendation to drop third adjacent channel restrictions in future applications. We will urge our elected officials to make such a change. If a station can't be granted using a simple 318 application, then contour based methodology should be allowed if it can be demonstrated that no objectionable interference would be caused by the new station. Basically, this would work under the same criteria that translators currently enjoy and would require the licensee to mitigate any legitimate interference problems. The only difference is the LPFM would originate local programming. We think that is a good thing

Obviously, doing this would require additional engineering work on the part of the applicant. That is a small price to pay. With readily available computer modeling programs, the process is straightforward and remarkably predictable. Some LPFM proponents claim that being forced to hire a consultant and submit accurate engineering data is beyond the means of many potential applicants. If that is the case, then so be it. These engineering studies are not prohibitively expensive. If an applicant can't raise the funds to do proper engineering in the application process, then it is quite likely they will also have problems supporting the station once it is on the air.

## **E. STEPS FORWARD**

In general, we think the Commission's recent decisions and proposals are a step forward. Nevertheless, we believe the FCC must go further if it wishes to open the airwaves to a broad range of information, opinion and entertainment. To this end, we support some of the recent proposals made by the Amherst Alliance as follows:

- (1) Allow and invite applicants for LP10 licenses (1 to 10 watts) to join applicants for LP100 licenses (11 to 100 watts) when the new LPFM filing window is opened;
- (2) Allow and invite applicants with highly rural service areas (100% outside of any SMSA or Micro-SMSA) to propose LPFM stations of 250 watts, or even 1,000 watts;
- (3) Proceed with establishment of Low Power Radio stations on the AM Band, which the FCC has already considered in pending Docket RM-11287, by either issuing a final rule

in that Docket or re-opening the Docket for the submission of new Low Power AM proposals;

And

- (4) Extend to the remaining Class D educational stations, whatever new options and/or protections are established for LPFM, or, alternatively, allow and invite Class D educational stations to convert to LPFM status if they choose.

We are aware that Amherst Alliance has filed their own comments regarding these proposals, so we won't elaborate further, except to say we think they are on the right track regarding the future of local radio.

#### **F. DISPLACEMENT OF NON-LOCAL TRANSLATORS BY LPFM STATIONS**

We understand the FCC is also considering whether to allow LPFM stations to displace certain translators, at least when those LPFM stations meet new, tightened "localism" criteria. We view the Commission's contemplated policy as a possible step in the right direction, but we are *not* in favor of LPFMs being allowed to displace any translators that are currently operating, especially if they rebroadcast the programming of an originating station that is located less than 100 (or even 150) miles from the translator site. To do so would deprive many communities of programming that they have come to rely on.

As we have mentioned previously, we are not generally fans of "satellator" networks, but the fact remains that those currently on the air did so within the rules as they stood at the time of their Application. We feel it is unfair to take away something, once it is given. On the other hand, we believe the Commission can prevent more of these situations happening in the future. We hope you do.

It has been suggested that a different criteria might be used for Western states as opposed to the more crowded Eastern Corridor. We would have no objection to a well thought out plan. We recognize that different areas of the country have different definitions of what they consider "local." In our area (Texas), children routinely travel 15 or more miles to school. We think that is "local." Healthcare, recreation and shopping can easily be 20 or more miles or more away. We think nothing of it. On the other hand, in areas such as New England, traveling 15-20 miles makes a large difference in the nature of

the community. Localism is a perceived standard and not the same for every community. It is not something that can be legislated.

#### **G. LPFM OWNERSHIP RESTRICTIONS**

The original Report and Order that established the LPFM service stated:

*“After the first two years, we will permit multiple ownership of LPFM stations nationally, but only up to a maximum of 10 LPFM stations over a phased-in period.”*

It further stated:

*“For purposes of the local ownership limits, we will require that no entity own or have an attributable interest in two or more LPFM stations located within 7 miles of each other. That is, to comply with our local ownership limits, the antennas of commonly-owned stations must be separated by at least seven miles. We believe seven miles is appropriate given the approximately 3.5 mile signal reach of LP100 stations. Although the signal reach of LP10 stations is smaller, for the sake of simplicity we will apply the seven-mile ownership separation to both classes of service.”*

We feel that this was a fair and reasonable approach to allow the LPFM service to grow and prosper without being over saturated by sound alike stations. Providing high quality local service is a time consuming and expensive proposition. Indeed, there are economies of scale that come into play which really do allow licensee's of multiple stations to provide better programming. We understand the Commission's aversion to allowing huge conglomerates to overtake the LPFM world, but we think this went too far. With a cap of 10 stations, it is very unlikely that anyone could amass an operating group that rivals anything found in commercial or non-commercial group owned stations. We seen no reason why this rule should have been changed and express our disappointment at the Commission's decision.

We would have no objection to a situation where an existing licensee was given lower preference in the selection process if there were multiple applications for the same frequency. In a case where no other applicants come to the surface, then it seems wasteful to deny service to a community simply because the only applicant operates another LPFM station. We would even go so far as to recommend that the ownership cap in the original R&O be downgraded to five stations. That would seem fair. To totally eliminate multiple LPFM ownership seems to us to be an over-reaction to a problem that does not currently exist.

#### **H. WHO SPEAKS FOR LPFM?**

To read the most recent Report and Order, it seems that The Prometheus Radio Project has the ear of the Commission. On many occasions we have found ourselves on the same side of the fence as our friends at Prometheus. That said, we do not feel that they represent the entire Low Power FM Community, merely a part of it. Their interpretation tends to favor causes that involve social or political change. While we think these organizations deserve the same treatment as everyone else, our experience tells us that not all LPFM stations are a hotbed of activism. Most are simply trying to serve the underserved in their communities. It is nothing more than trying to be a good neighbor. We think that is a good thing. We would urge the Commission to take the comments of actual LPFM operators more seriously than any advocacy group, regardless of who they are.

## **I. CONCLUSION**

For the reasons we have stated herein, we urge the Federal Communications Commission to carefully consider our recommendations.

Respectfully submitted,

Chuck Conrad  
General Manager  
KZQX-LP  
P.O. Box 1008  
Kilgore, Texas 75663